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7 IN THE UNITED STATES DISTRICT COURT
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9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 FEDERAL TRADE COMMISSION,

No. C 10-00022 WHA

12 Plaintiff,

13 v.

**ORDER REGARDING ASSETS
FROZEN UNDER THE
PRELIMINARY INJUNCTION**

14 INC21.COM CORPORATION, *et al.*,

15 Defendants.
16 _____/

17 The undersigned has reviewed defendants' motion seeking access to their business and
18 personal bank accounts, which were frozen under the preliminary injunction as amended on April
19 13, 2010 (Dkt. Nos. 97, 110). Defendants also seek clarification as to whether the amended
20 preliminary injunction was intended to freeze both their business and personal assets.


21 Addressing the latter issue first, defendants are reminded that the freezing of their assets
22 was ordered in direct response to their argument that they should not be required to issue refunds
23 to customers at the preliminary injunction stage (*see* Dkt. Nos. 82, 97). The undersigned agreed,
24 and the preliminary injunction was amended so that refunds would no longer required (at least,
25 not at this stage). That said, to ensure that disputed assets in the possession of defendants were
26 not squandered or funneled away to the detriment of defrauded customers who might be entitled
27 to refunds following a trial on the merits, the undersigned froze the assets of *all* defendants
28 pending the resolution of this litigation. This freeze included both individual defendants and

1 corporate defendants. In other words, contrary to defendants' argument, the injunction *was*
2 intended to freeze both personal and business assets. This was entirely proper under well-
3 established Ninth Circuit authority. *See FSLIC v. Ferm*, 909 F.2d 372, 374 (9th Cir. 1990) (citing
4 numerous decision).

5 With that clarification provided, the remaining issue is whether defendants have provided
6 adequate documentation to warrant a release of frozen funds for business and personal expenses.
7 This issue will be addressed — in addition to Greenberg Traurig's pending motion to withdraw as
8 counsel for defendants — at the hearing scheduled at **2:00 P.M. ON MAY 13**. Counsel, however,
9 should be aware that the undersigned will *not*, under any circumstances, allow legal fees to be
10 paid using disputed funds. Additionally, to the extent the undersigned authorizes payments to
11 cover personal/family expenses, reasonable business expenses, and property-related payments
12 (*e.g.*, mortgage payments and property taxes), such payments will only be authorized as direct
13 payments to creditors (by electronic transfer, cashier's check, or other direct means).^{*} With that
14 in mind, defendants shall bring to the hearing all necessary information pertaining to their
15 creditors so that payments authorized (if any) can be sent from their bank accounts directly to
16 them. Defendants shall also bring any and all bills, receipts, lease agreements, bank account
17 statements (showing the bank account numbers in question), and any other supporting
18 documentation to the hearing to substantiate their requests.

19
20 **IT IS SO ORDERED.**

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22 Dated: May 10, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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25 _____
26 * While the FTC appears to *support* the use of frozen funds to prevent waste of defendant
27 John Lin's encumbered assets (specifically, the approximately \$37,000 in overdue mortgage
28 payments and property taxes), defendant John Lin's personal bank accounts do not have sufficient
funds to cover this payment. If the undersigned authorized such a payment, defendants would
need to specify (1) what funds would be used to cover this payment and (2) the specific names of
the creditors (and corresponding payment amounts) where these payments would be directed.